

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Christopher W. Madel,)	File No. 13-CV-2832
)	PAM/FLN)
Plaintiff,)	
)	St. Paul, Minnesota
v.)	December 14, 2016
)	9:00 a.m.
U.S. Department of Justice and)	
Drug Enforcement)	
Administration,)	
)	
Defendants.)	

BEFORE THE HONORABLE PAUL A. MAGNUSON
UNITED STATES DISTRICT COURT JUDGE
(MOTIONS HEARING)

APPEARANCES

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P R O C E E D I N G S

IN OPEN COURT

THE LAW CLERK: All rise. United States District Court for the District of Minnesota is now in session, the Honorable Paul A. Magnuson presiding.

Please be seated.

THE COURT: Good morning. We have the matter of Madel v. DOJ. Welcome back. Ms. Marentette.

MS. MARENTETTE: Good morning, Your Honor.

THE COURT: Tell me why you should have summary judgment.

MS. MARENTETTE: Again, good morning. I know it's a busy day for the Court and since the Court is familiar with this case, I plan to discuss some higher-level concepts that relate to the segregability requirements and respond to any of the Court's questions you may have, Your Honor. I may reserve a little additional time for rebuttal, if possible.

As the Court is aware, we're dealing with four spreadsheets that defendants have withheld in full. Those spreadsheets detail every transaction by four different distributors of oxycodone over a seven-year period. It discloses the identity of the distributor, the identity of the buyer, the location of the buyer, and the amounts of oxycodone, and the dates, and that type of specific

1 information. We're here specifically to talk about
2 segregability. I just wanted to emphasize, again, the words
3 explicit in the statute that it is a reasonable
4 segregability requirement. The statute does not require in
5 every instance that a portion of a record that is not
6 covered by an exemption be disclosed. And we're looking at
7 the specific facts and circumstances of these documents and
8 with relation to our exemption for concerns which has to --

9 THE COURT: Well, it was certainly important
10 enough to get the attention of the circuit.

11 MS. MARENTETTE: It was. It was, Your Honor. You
12 know, and with regret we are back here for this one narrow
13 issue. Fortunately, we couldn't --

14 THE COURT: Well, I'm not so sure that we are
15 because our good friends on the fifth floor, they use that
16 issue that Mr. Madel put on the last page of his reply brief
17 but he used to send it back, but they sent the whole nine
18 yards back.

19 MS. MARENTETTE: Well, Your Honor, I would
20 disagree that they sent everything back. The Eighth Circuit
21 agreed with Your Honor that Exemption 4 does apply to these
22 records but questioned whether the record supported that
23 there wasn't any reasonably segregable part of those records
24 and asked the agency to provide more information on that
25 point, which I believe we have in the declaration of Kathy

1 Myrick, the second declaration as well. And we have two
2 declarations from two of the submitter companies.
3 Additional information for the other two are incorporated
4 into Ms. Myrick's declaration that talks about why those
5 different portions of the spreadsheets, the different
6 columns of data, are competitively sensitive, as well as why
7 even if there are a few columns that may not be exempt why
8 those columns would be inextricably intertwined such that
9 there would not be a requirement to segregate in this case.

10 In particular, I think this case is somewhat
11 unique in that we normally have a set of discrete documents
12 we're looking at, narrative documents, where we might have a
13 paragraph here that is exempt, a paragraph there that is not
14 or even a chapter that is or a chapter that is not in some
15 sort of report that we're dealing with. Here we have
16 something a little different where we have columns of data
17 that are interacting, and it's that interaction that
18 produces the competitive concern. It's identifying the
19 distributor with the buyer with the volume of oxycodone on
20 specific dates that allows these competitors to get a
21 complete list of a sales record and of their list of buyers.
22 So when we look at how we redact that, it may be technically
23 possible to simply redact down to just disclose, for
24 example, Cardinal Health. Just disclosing Cardinal Health
25 may be an option. However, that wouldn't be a reasonable

1 requirement here. It really wouldn't provide Mr. Madel with
2 any information. He already knows Cardinal Health is a
3 distributor of oxycodone. It would be -- as some of the
4 cases we've cited in our opening and reply briefs, it would
5 be futile, it would provide no additional information. So
6 the Myrick declaration that we now have on our docket here,
7 as well as the submitters, have argued that really all of
8 this information, all of these columns -- all of these
9 transactions, all of these columns are competitively
10 sensitive and should not be redacted. But even if we take
11 an assumption that there may be some discrete columns,
12 discrete fields that we could isolate, it really wouldn't
13 provide any information of any value. I know that Mr. Madel
14 has argued that that's the agency taking the position of
15 judging what's valuable to him, but we looked specifically
16 at his request that wanted -- he wants the identification of
17 the distributor, and their buyer, and the amount of the
18 transaction, and that's exactly what we would have to
19 disentangle and redact in order to deal with the Exemption 4
20 concern. You know, so fundamentally I think we're looking
21 at an issue that the information is inextricably
22 intertwined.

23 I think as applied from the *Missouri Coalition*
24 case -- that's the Eighth Circuit case that we're looking at
25 primarily that sets our standard for the level of detail we

1 need to provide the Court on segregability and also whether
2 the documents are reasonably segregable, which we argue that
3 they are not.

4 I also want to point out to the Court that
5 specifically with some categories of information Mr. Madel
6 has requested -- the large transactions -- the companies
7 have informed the agency and have informed the Court and the
8 record that releasing that information could compromise the
9 company's anti-diversion efforts. That would allow people
10 who are interested in diversion to understand how much
11 oxycodone is moving to certain buyers at certain points in
12 time. So that is a concern that I wanted to bring to the
13 Court's attention.

14 I wanted to briefly address -- and maybe the Court
15 has questions on these issues, too -- plaintiff's arguments
16 with respect to the ARCOS Report 1 that is on the agency's
17 website now, as well as the summary chart from the *Cardinal*
18 *Health* suspension case that both parties address in this
19 motion. What I want to distinguish is the issue of
20 segregability and whether a document is segregable and a
21 separate issue under FOIA, which is waiver, whether the
22 publication of information -- or whether the information is
23 already public has waived the agency's ability to assert an
24 exemption. I think what we're dealing with when we're
25 talking about ARCOS Report 1 being public or the Cardinal

1 Health information being public is really an issue of
2 waiver. And the law on that is that the agency really is
3 only waiving its ability to usurp the exemption when it's
4 the identical document that has been made public. It's part
5 of a public domain doctrine that the D.C. Circuit has dealt
6 with on a variety of occasions. And the idea is that once
7 the identical document is public, enforcing the exemption
8 really doesn't have any effect anymore because the public
9 already has that information. But we don't have that
10 identical information. The four spreadsheets we're dealing
11 with here are significantly more detailed and, again, go
12 through thousands and thousands -- hundreds of thousands of
13 entries relating to every single transaction. And what
14 we're dealing with with ARCOS Report 1 is more summary data.
15 And the *Cardinal Health* suspension data as well is a summary
16 chart that isn't identical to what we're dealing with. So
17 under that waiver doctrine we argue that that does not apply
18 here and it doesn't interact or defeat the agency's
19 demonstration that the four spreadsheets are not reasonably
20 segregable.

21 Before I sit down, I will point out I think we
22 have met our burden in providing detail to support why these
23 spreadsheets should be withheld in full with particular
24 respect to older transactions, larger transactions,
25 individual columns of data, and why there's no reasonably

1 segregable portion. Certainly if the Court disagrees, the
2 proper course, we argue, is that we are happy to provide the
3 Court with more detailed information. While normally I
4 would not encourage an in-camera review of withheld records
5 because often that's very burdensome for the Court --

6 THE COURT: You've got that right.

7 MS. MARENTETTE: -- in this case it is an option I
8 think we could consider because it could be done with one
9 page. The spreadsheets are very lengthy, but the
10 information is repetitive so that one page of a sample of a
11 spreadsheet that the Court could look at -- this is only if
12 the Court feels it's warranted; and, again, we argue we
13 think we have met our burden without any additional effort
14 here, but I do suggest just because this case is a little
15 different and if we do need to be practical because we've
16 reached that point, I think we could have the Court take a
17 look at just one page in camera and that would resolve any
18 remaining issue the Court might have with whether the
19 document should be redacted.

20 THE COURT: How about the fact that you've already
21 released a bunch of this information, put it on your
22 website? Didn't bother to tell Mr. Madel, but you did it.

23 MS. MARENTETTE: Right. I understand the Court
24 would have a concern about that because I did, too, when I
25 learned about it. That was the point I was discussing

1 earlier, this ARCOS Report 1. So the original request was
2 for a series of these summary reports that DEA puts together
3 with the same information that the four spreadsheets from
4 the companies -- that that data is compiled in a variety of
5 ways. The reports that were already up online were ones
6 that were very desegregated, you know, distributions by
7 state where you really could never tell who the submitters
8 of the information were, who their customers were. ARCOS
9 Report 1 was something DEA withheld originally when we came
10 to you with this case originally. And the reason that the
11 DEA took that position at the time was that the data is
12 broken down by zip code. It still doesn't say who the
13 companies are or who their buyers are, but it's broken down
14 by zip code. And you can essentially possibly reverse
15 engineer to get that information, because some of these
16 places are really rural. You can take a small area and
17 realize there's only one pharmacy in that zip code and you
18 can figure out and back up to who is getting what amount of
19 oxycodone. So that's why that was originally withheld.

20 The agency made a public policy decision to
21 publish that data. Again, this data is used for the agency
22 to fulfill its mission in regulating controlled substances.
23 And that's something that as soon as the decision was made I
24 wish I would've known to be able to tell plaintiff. I
25 didn't know. It was just the decision got made here and

1 over here (indicating) was the attorney handling the FOIA
2 case, and I was in my office over here in Minneapolis. As
3 soon as we discovered it, we told Mr. Madel as soon as I
4 knew. I e-mailed him to let him know. But, again, because
5 the information is different than what we have, it's not the
6 same information than what we have in the four withheld
7 spreadsheets, again, I argue that that is an issue of waiver
8 under FOIA and fits within that framework, not
9 segregability. And there wouldn't be waiver here because
10 it's a different document. It's actually plaintiff's burden
11 on a waiver argument to demonstrate that they are identical.
12 The data we're dealing with is far more detailed and
13 discloses precisely the distributor and each of their buyers
14 on the different dates of the transactions.

15 THE COURT: Okay. Thank you very much.

16 MS. MARENTETTE: Thank you.

17 THE COURT: Ms. Robbins.

18 MS. ROBBINS: Good morning, Your Honor.

19 So it seems to me that, based on all of the
20 information that we have now been provided, what we have
21 here are actually more questions rather than fewer, two
22 areas of which raise genuine issues of material fact for us:
23 the first being the adequacy of the segregability analysis
24 that was undertaken by SARF, and the second area being the
25 genuine issue of material fact as to whether SARF and DEA

1 are actually engaging in good faith in conducting that
2 analysis.

3 And the things that I will bring up -- and I
4 should say, first of all, our argument related to ARCOS
5 Report 1 and also to the Cardinal Health disclosures is not
6 a waiver argument. I can see why defendants are attempting
7 to place it into the bucket of waiver in that that shifts
8 the burden. But we bring those to Your Honor's attention
9 more as indicative of the problems with the rationale that
10 apparently SARF used in determining segregability in the
11 first place, second place, and third place.

12 So at three different times over the course of the
13 years of this case, Mr. Madel was told absolutely not, ARCOS
14 Report 1 is too competitively sensitive, we can't even
15 segregate out any earlier years from 2006 moving forward.
16 He was told that initially January 1, 2014, a year after he
17 had issued his request. He was told that again in February
18 of 2014; most recently said again in October, on October 8th
19 of 2015: nope, that cannot be segregated and we will not
20 provide that information to you.

21 One thing about SARF to remember, too, is that the
22 chief of that division in charge of FOIA is also responsible
23 under the statute with communicating with the rest of DEA
24 and the head of DEA, as well as the Attorney General, in
25 terms of how they're proceeding under their withholding

1 arguments and just generally the positions that the agency
2 is taking. The fact that the agency with three months after
3 the last time we were told that, no, in fact that report
4 cannot be disclosed to you in any way -- no portion of it in
5 fact -- the fact that three months later the agency would
6 make such a drastic change in decision and also that,
7 apparently, that information didn't filter its way into
8 either SARF or to DOJ counsel, that indicates to me a
9 substantial issue in terms of not only the analysis that was
10 conducted by SARF, because clearly if it's so competitively
11 sensitive and DEA would later decide in fact, no, we can
12 publish it and go broader than your request in terms of time
13 frame and data, that to me indicates that there is a
14 question as to both the analysis that was conducted and also
15 as to the good faith in terms of the time frame and the
16 amount of time that we have been having to push the same
17 issue only to be told, oh, nine months ago it was actually
18 released online. And then similarly the analysis is
19 questioned by the fact that these Cardinal Health charts
20 were disclosed. And those four charts indicate at the
21 bottom there that they are source data from ARCOS. That is
22 the same date that we've requested. I'm not arguing that
23 the data is identical; it's obviously not. It's related to
24 Florida. But what I am saying is that when it appears that
25 that data is helpful to the DEA to disclose, that then they

1 will do so. And when it's not helpful to the DEA or when
2 SARF is not communicating with the DEA as required by FOIA
3 that we are told as a requester that, no, none of that
4 information like this is possible to receive. That again
5 brings into question, I think, the whole good-faith effort
6 here and also the delay and the analysis itself.

7 So those are our -- I mean, our main questions
8 about those documents is really just to point out the
9 changes in position that have gone on here with no
10 explanation, and then also just why is this happening when
11 the declarations that are being submitted now indicate that,
12 well, AmerisourceBergen -- the response from them was
13 summarized as, you know, in the time frame historical data
14 is always confidential. There's no end time? What does
15 that mean? I mean, that we can never ever receive any
16 information that would relate to Amerisource? And is there
17 no critical thinking that's going to go into SARF analysis
18 in looking at the submitter's objections and determining is
19 there actually a competitive harm and not just a competitive
20 harm, but a substantial likelihood of competitive harm?
21 That time frame issue is out there. It is real. The fact
22 that these submitters are objecting to any disclosure of any
23 information no matter what the time frame is, I find that to
24 be slightly incredible in that in any other civil-litigation
25 case we would be pushing back. There would be an argument

1 to be made that they would have to justify why exactly
2 information from a decade ago is just as confidential and
3 sensitive as information that is from last year. And is
4 there not a way to then sort out the data from just one year
5 and not provide the rest? We don't know that. If this is
6 all information that's contained in spreadsheets -- today is
7 the first day I found out that, apparently, we can redact
8 just Cardinal Health. I don't know if that means the name
9 Cardinal Health and we're actually provided the rest of the
10 information or if that means redact everything related to
11 Cardinal Health. I don't know what that means. And that's
12 the point of the discovery that we're requesting at this
13 place.

14 So there are allegations that we are now making
15 based on the facts in this case that there is a genuine
16 issue of material fact as to good faith. These summaries,
17 the declarations, and affidavits, they are not sufficient to
18 make a decision at this point about whether segregation is
19 possible under any of these items: dosage, units, time
20 frame or anything like that.

21 Sorry, I thought Your Honor was going to say
22 something.

23 And so we are asking for discovery. It is
24 limited. I would envision starting with interrogatories and
25 perhaps a deposition. I'm not asking for the ability to

1 invade an agency's pre-decisional ideas, but what I am
2 asking is what are the facts that underline this rationale?
3 Is there any more communication that they actually had with
4 the submitters that would actually explain why it is that
5 2006 data is just as competitive as 2015 data and we cannot
6 receive any part of it. That's where we are with our case.

7 And truth be told, again, this is a situation
8 where we're talking about an opioid epidemic, and people are
9 dying, and we are --

10 THE COURT: Well, all you have to do is pick up
11 the newspaper for that subject.

12 MS. ROBBINS: Right. So the idea that we are
13 going to allow the government to hide behind the exemptions
14 here without actually answering the questions about why it
15 is that none of this can be separated from the rest in a
16 spreadsheet that can probably be sorted we still don't know.
17 There's been no answer for that either. And so to me, I
18 think there are genuine issues of material fact that remain.

19 With that said, we would also ask Your Honor to
20 grant our declaratory judgment that this is a violation of
21 FOIA, that this ongoing dispute, that the delay, and all of
22 the battles that we've had to undertake here against the
23 government in this case, that that is sufficient. There is
24 no mootness at this point. We are entitled to declaratory
25 judgment in our favor on this.

1 I'm happy to answer any questions that Your Honor
2 has. I mean, the amount of things that have changed over
3 the last ten years in the healthcare arena just makes me
4 question the validity of these consistent blanket objections
5 from the submitters and our willingness to just go along
6 with them without further questions.

7 THE COURT: Well, on the declaratory judgment,
8 that's just premature at this point. I'm not about to do
9 that.

10 Okay. Anything else?

11 MS. ROBBINS: No. Thank you, Your Honor.

12 THE COURT: Okay. Ms. Marentette.

13 MS. MARENTETTE: I think I'll work backwards.

14 First, with respect to discovery -- and our brief
15 is clear on this -- there is no basis for it that they have
16 demonstrated. The case law is clear that discovery when
17 it's granted -- and it's rarely granted -- is limited to
18 inquiring into the propriety of the search on the index of
19 information that's been withheld, and that's not the type of
20 thing that they are looking for. What they are looking for
21 is information about why these documents aren't reasonably
22 segregable, which we're discussing right now. So if the
23 record is incomplete -- again, we don't think that it is; we
24 think there's plenty of information in there that explains
25 the issues that Ms. Robbins is asking about -- but the

1 course that should be taken this Court has taken before, is
2 seeking more information from the agency or perhaps in this
3 one limited circumstance taking a look at a section of the
4 spreadsheet so the Court can make a more informed
5 determination of whether the record is robust enough to
6 grant the motion.

7 I want to just point out that in our reply brief
8 on page 4 and 5 we provide just a couple of examples of why
9 the declarations are specific to the concerns Ms. Robbins is
10 concerned about. With historical data the companies have
11 said it's not just that it's competitive always. They've
12 talked about the fact that they have had the same customers
13 all along for some of these companies. So to disclose
14 historical data means you're still disclosing all the stuff
15 of potentially their current customers, and that's the
16 concern that they have there.

17 And there are many, many other examples in
18 addition to what we've provided in our reply brief that
19 states with specificity why certain portions of the
20 spreadsheet -- just quantities of oxycodone by themselves
21 are sensitive. When I was mentioning before an example of
22 potentially just redacting down to revealing just the name
23 Cardinal Health, I wasn't saying you could redact and
24 disclose all the other stuff. I was trying to give a basic
25 example of why these spreadsheets aren't reasonably

1 segregable. We'd have to take out all of the stuff
2 Mr. Madel wants. We'd have to take out the identity of the
3 buyers, their locations, the amounts of oxycodone, the dates
4 of transactions. We're left with at best a row of column
5 headers. We're left with perhaps the name Cardinal Health,
6 the name Walgreens. We already know that. It doesn't
7 provide any additional information. Is it something the
8 agency technically could do? And, of course, if we're
9 ordered to do, we'll do it, but it's futile and it's not
10 required under the case law that speaks to this inextricably
11 intertwined exemption to segregability. That's what I was
12 trying to say before. And if I was unclear, I hope I've
13 just cleared that up.

14 I also want to discuss -- I understand very much
15 the concerns about ARCOS Report 1. I think it's regrettable
16 that the information didn't get to plaintiff earlier, but I
17 do not think that that reflects on the good faith of the
18 agency. To the best of my knowledge -- and I've asked these
19 questions quite sternly of my client -- it was simply a lack
20 -- there should've been communication. It's a large agency.
21 It just didn't happen. It wasn't anybody trying to hide
22 anything. The communication just didn't make it in a timely
23 fashion. So we regret that, but I'm standing here on record
24 to say that I do not think that there was any bad faith in
25 how that happened.

1 I also want to point out that the *Cardinal Health*
2 matter was a suspension case. This data exists so that DEA
3 can intervene timely to make sure that there is no diversion
4 of these very dangerous pharmaceuticals, and that's what
5 Mr. Madel says he's trying to help with. The fact that the
6 agency used four pages of a summary chart in that case is
7 very different from a FOIA case to which we have a different
8 regulation. We have to notify submitters when there's a
9 FOIA request. We have exemptions. And if we do it wrong in
10 FOIA, we get sued by the submitters. They can bring what's
11 called a reverse FOIA suit under the Administrative
12 Procedure Act and sue us for trying to release the
13 information. So the FOIA context is somewhat specific.
14 There are specific regulations and steps the agency has to
15 take. And we invite additional litigation if we're not
16 being careful about our analysis. And I think the record
17 shows that we have been careful here.

18 Let me just see if I have anything. If the Court
19 has any questions -- I'm just looking over my notes. I
20 think that's all I have.

21 The Court already mentioned that the discussion of
22 declaratory judgment is premature. We are on the same page.
23 But until the Court determines that we've met our
24 obligations under the statute, clearly the Court has
25 jurisdiction. Our argument is simply that once the Court

1 does make that determination that the case is ended,
2 jurisdiction is ended, and there's no jurisdiction for the
3 Court to additionally enter declaratory relief with respect
4 to timeliness. Timeliness is an issue that occurs before
5 the -- during the request and then when that first and final
6 response is made. The fact that the litigation has gone on
7 and gone up to the Eighth Circuit and come back really
8 doesn't have to do with the agency giving a timely FOIA
9 response on the initial part of that.

10 Without any further questions, I can --

11 THE COURT: Counsel, I'm kind of taken by the
12 suggestion that you've made of just supplying a page to the
13 Court to look at what we're really looking at in the
14 segregability issue. But I'd like to expand that just a
15 little bit. I'd like to have you select the page. It's
16 your page to pick.

17 MS. MARENTETTE: I actually have one right here,
18 Your Honor, but --

19 THE COURT: And then I would like to take that
20 page and have you give me a brief on why it's not
21 segregable, just that page.

22 MS. MARENTETTE: Okay.

23 THE COURT: But now I want to do something else.
24 I want you to give that page to the plaintiffs, and I want
25 the plaintiffs to give me -- and I'm not talking about an

1 opus on this, I'm talking about a letter -- plaintiffs give
2 me a letter on why it is segregable so I can get down to the
3 very practical core of this because, frankly, that's where
4 I'm struggling. I see these thousands and thousands and
5 thousands of pages, and I think oh, whoops. But, on the
6 other hand, I remember years ago when my colleague, Judge
7 Nelson, took me over to a room about this size to show me
8 the tobacco case exhibits.

9 MS. MARENTETTE: This is not that, Your Honor.

10 THE COURT: And I realize now that -- and I don't
11 have one up here now, but I realize all of that could've
12 been on a disk this size (indicating). The world has
13 changed. And I'm trying to figure out just on a practical
14 level where we are on the segregability issue. And I think
15 a page like this -- it's a suggestion, I think it's good,
16 but I'd like you guys to take your separate sides on it and
17 let me look at it and try to divine from that.

18 MS. MARENTETTE: Your Honor, if I could just
19 clarify. I certainly can provide Your Honor with a
20 full-page sample. It does contain each detailed
21 transaction. I could provide the plaintiff that page but
22 redact the actual data of the transactions there. To give
23 them a full page I feel is then simply disclosing
24 information.

25 THE COURT: Counsel, I don't know if I have the

1 right to do it, but I'm going to order, number one, that
2 this be submitted under seal. And I'm going to order that
3 in one page it be released. And I'm going to order the
4 plaintiffs will never disclose it --

5 MS. MARENTETTE: Okay.

6 THE COURT: -- except to the Court. I think we
7 can do that, and I think we should. And once I get it all
8 figured out if you want to destroy it all, we can. I just
9 think as a practical matter we need to look at the whole
10 thing. Like I say, this is one of those thousands of pages.
11 And I'll let you pick the page.

12 MS. MARENTETTE: Sure, Your Honor.

13 THE COURT: You want to pick one for the local
14 buggy whip company that isn't going to be applicable to
15 anything, that's fine with me. I don't care.

16 MS. MARENTETTE: I mean, I think with the Court's
17 assurance of that protection, I think it will ameliorate
18 concerns with the submitters.

19 THE COURT: I am happy to give protection to that.
20 I don't want to in any way throw this on the front page of
21 the Star Tribune. I just want to really take a practical
22 look at what we have.

23 Okay. With that I'm going to take the matter
24 under advisement. The holidays are coming up, but maybe the
25 end of the first week of January or something like that I

1 can get responses from both of you?

2 MS. MARENTETTE: We can discuss among ourselves an
3 amenable schedule.

4 THE COURT: Figure it out. If you can do better
5 than that, why, be my guest.

6 MS. ROBBINS: Thank you, Your Honor. That works.
7 And we will, obviously, abide by Your Honor's ruling and
8 will not disclose any of that information.

9 MS. MARENTETTE: I don't mean to imply a lack of
10 trust, just assurance to my client and the company.

11 THE COURT: No, I understand, Counsel.

12 MS. MARENTETTE: Thank you, Your Honor.

13 THE COURT: Okay. Thank you.

14 (Court adjourned at 9:30 a.m.)

15 * * *

16 I, Debra Beauvais, certify that the foregoing is a
17 correct transcript from the record of proceedings in the
18 above-entitled matter.

19 Certified by: s/Debra Beauvais
20 Debra Beauvais, RPR-CRR
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